

GOVERNMENT OF ANDHRA PRADESH

ABSTRACT

Establishment – Home Department - Sri M.Nageswar Rao, Home Guard No.2024, formerly worked as Attender in Home Department - Pay and allowances - Sanctioned – Orders –Issued.

HOME (OP.I) DEPARTMENT

G.O Ms.No.201

Dated :06-10-2008.

Read the following:

1. G.O.Ms.No.51, Home (OP.I) Department, dated 13-02-2004
2. G.O.Ms.No.174, Home (OP-I)Department, dated 22-8-2005
3. Proceedings No. A2/556/2005, dated: 5-10-2005 of Commandant Home Guards, Hyderabad city.
4. From the Hon'ble A.P.A.T. Order dated. 29-08-2005 in O.A. No.4908/05.
5. From the Hon'ble A.P.A.T. Order dated. 21-09-2005 in CA No.698/2005 in O.A.No.4908/2005.
6. Orders of Hon'ble A.P.A.T. in O.A.No.4908/2005 with VMA 822/05 and O.A. No.3617/05, dated 14-11-2006.
7. Order of Hon'ble High Court of A.P. in WVMP No.804/2007 and WPMP No.32857/2006 in W.P.No.25634/2006, dated .01-07-2008.
8. From the Hon'ble A.P.A.T. Order dated. 24-07-2008 in CA No.473/2008 in O.A.No.4908/2005.

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**ORDER:**

In the reference 1<sup>st</sup> read above, Sri M.Nageswar Rao, Home Guard No.2024, was appointed as Attender in Home Department and he was admitted to duty in Home Department with effect from 16-2-2004. The salary bill of the individual was returned by the PAO for the reason that the concurrence of Finance Department which is mandatory, in such cases is required to admit the claim.

2. After examining the matter in detail, it is noticed that the applicant does not fulfill the requirements as provided in the Act 2 of 1994. Accordingly, the Government have issued order in G.O.Ms.No.174, Home(OP-I) Department, dated 22-8-2005, cancelling the appointment of Sri M.Nageswar Rao as Attender and his service was continued in the post of Home Guard. The Director General, Home Guard, was directed to arrange for payment of the Daily Allowance to Sri M.Nageswar Rao, Home Guard No.2024, for the period from 16-02-2004, till the date, during which period the individual discharged the duties in Home Department, A.P.Secretariat, treating the period as OD by the Home Guard. Accordingly, the Commandant, Home Guards, Hyderabad City has issued orders No.A2/556/2005, dated 5-10-2005, continuing the individual as Home Guard volunteer in City Home Guards Orgn., Hyderabad for three years.

3. Sri M.Nageswar Rao, Home Guard, has filed O.A. No.4908/2005 in the APAT challenging the above orders. The Hon'ble Tribunal has passed Interim directions suspending the G.O.Ms.No.174, Home (OP-I) Department, dated 22-8-2005. Government have filed VMA No.822/2005 in the Hon'ble Tribunal. The individual has filed another O.A.No.3617/2005 for non-payment of salaries for the period worked as Attender in Home Department.

4) In the reference 6<sup>th</sup> read above , the Hon'ble APAT in its order dated 14-11-2006 in O.A.Nos. 4908/2005 with VMA No.822/2005 observed that:

“In view of the appointment being issued by the Government, in relaxation of rules, the Act II of 1994 does not apply to such a case and the impugned orders issued in G.O.Ms.No.174, Home (OP.I) Department, dated: 22-08-2005, are liable to be quashed and, accordingly, they are quashed. In view of quashing of cancellation orders issued in G.O.Ms.No.174, Home (OP.I) Department, dated 22-8-2005, the respondents are directed to pay salaries attached to the post to which the applicant was appointed pursuant to the orders

issued in G.O.Ms.No.51, Home (OP.I) Department, dated 13-02-2004. Accordingly . the both O.As allowed and consequent, VMA stands dismissed”

5) Government have filed W.P.No.25634/06 in the Hon’ble High Court of A.P. against the orders of APAT. The Hon’ble High Court admitted the W.P. and ordered on 18-1-2007 interim suspension of the orders of APAT in O.A.No. 4908/05 .

6) In the reference 7<sup>th</sup> read above, the Hon’ble High Court of A.P., in WVMP No.804/07 and W.P.M.P.No.32857/06 in W.P.No.25634/06 have passed the following further orders on 01-07-2008 :

“Since the petitioner-respondent was working as Home Guard for a period of ten years and he is still continuing in the cadre of Attender in the last grade service, we see no reasons to continue the interim order granted on 18-1-2007.

Accordingly, interim order granted on 18-1-2007 is vacated and the WVMP is allowed.

Post the W.P. for final hearing in usual course.”

7) In the reference 8<sup>th</sup> read above, the petitioner has again filed C.A.No.473/2008 in O.A.No.4908/2005 with VMA No.822/2005 and O.A.No.3617/2005. The Hon’ble Tribunal have issued show cause notice

8) Government after careful examination of the matter, have decided to implement the directions of the Hon’ble APAT in O.A. No. 4908/2005 with VMA No. 822/2005 and O.A.No. 3617/2005, to the extent of payment of salaries to the period he worked as Attender, as part of compliance, subject to outcome of final orders in the W.P. pending in the Hon’ble High Court.

9) Accordingly, Government hereby accord sanction for payment of salaries (i.e, the Pay & allowances) to Sri M.Nageswar Rao, Home Guard No.2024, for the period from 16-02-2004 to 22-8-2005, that is the period the individual discharged the duties as Attender in Home Department on temporary basis. This payment shall not entitle the individual to claim any right over the post or any other emoluments .

10) The Home(OP-II)Department are requested to draw and disburse the amount sanctioned in para (9) above to Sri M.Nageswar Rao, Home Guard No.2024.

11) This order issues with the concurrence of the Finance Department, vide their U.O. No.27794-A/464/A1/PC.III/2008, dated.20-09-2008.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

AJOYENDRA PYAL  
PRINCIPAL SECRETARY TO GOVERNMENT

To  
Sri M.Nageswar Rao,  
Home Guard No.2024 .  
The Home (OP-II)Department  
The Deputy Pay and Accounts Officer,  
Secretariat, Branch . Hyderabad.  
The Government Pleader for Home, APAT, Hyderabad  
The Government Pleader for Home, High Court of Andhra Pradesh, Hyderabad  
The Finance (PC-III)Department.  
SF/SC

//FORWARDED::BY ORDER//

SECTION OFFICER